

1 BILL NO. S-84-08- 28

2 SPECIAL ORDINANCE NO. S- 104-84

3 AN ORDINANCE approving Contract  
4 #398-84 - Lagoons - Sluice Gates  
5 Sanitary Sewer Improvement Res-  
6 olution, by the City of Fort  
7 Wayne, Indiana, by and through its  
8 Board of Public Works with Land  
9 Excavating, Inc.

10 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
11 THE CITY OF FORT WAYNE, INDIANA:

12 SECTION 1. That the annexed Contract #398-84 - Lagoons -  
13 Sluice Gates Sanitary Sewer Improvement Resolution, by the City  
14 of Fort Wayne, Indiana by and through its Board of Public Works  
15 and Land Excavating, Inc., for:

16 Sanitary Sewer Improvement Res.  
17 #398-84, Lagoons - Sluice Gates  
18 is described as follows: Sanitary  
19 Structure No. 1: The location of  
20 the existing structure is approxi-  
21 mately 3600+ LF East of Reed Road  
22 and approximately 3650+ LF South  
23 of Lake Avenue; more particularly  
24 described as being located on the  
25 Western half of the Indiana and  
Michigan service easement, which  
transverses said City of Fort Wayne  
Sludge Lagoons. Said construction  
in sanitary structure number 1  
shall consist of the removal of the  
existing 48" manhole stack, partial  
flow line removal and reconstruction  
installation of a concrete wall  
adaptable for pressure slide gate  
installation, 60" manhole stack in-  
stallation extension and installa-  
tion, above ground handwheel gate  
lift installation to be constructed  
in accordance with the plans, pro-  
files, special details and specifi-  
cations now on file in the Office  
of the Board of Public Works of  
said City;

26  
27  
28 the Contract price is Eleven Thousand Three Hundred Ninety-One  
29 and No/100 Dollars (\$11,391.00), all as more particularly set  
30 forth in said Contract and which is on file with the Office of  
31 the Board of Public Works and is by reference incorporated herein,  
32 made a part hereof and is hereby in all things ratified, con-  
33 firmed and approved.

1 || Page Two

3 SECTION 2. That this Ordinance shall be in full force  
4 and effect from and after its passage and any and all necessary  
5 approval by the Mayor.

### Councilmember

APPROVED AS TO FORM  
AND LEGALITY

Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Henry, seconded by GiaQuinta, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on , the 19 day of , at 6 o'clock P.M., E.S.T.

DATE: 8-14-84

SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by Stier, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BRADBURY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BURNS</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>EISBART</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>GiaQUINTA</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>HENRY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>REDD</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCHMIDT</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>STIER</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>TALARICO</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>

DATE: 8-28-84

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)  
(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. J-104-84  
on the 28th day of August, 1984.

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Ray A. Eberle  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,  
on the 29th day of August, 1984,  
at the hour of 11:00 o'clock A.M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 29th day of August,  
1984, at the hour of 4:00 o'clock P.M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR

CONTRACT NO. 398-84

BOARD ORDER NO.

THIS CONTRACT made and entered into in triplicate this Aug. <sup>8<sup>th</sup> day of 1984, by and between Land Excavating, Inc., herein called CONTRACTOR, and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor, and the Board of Public Works herein called OWNER,</sup>

WITNESSETH that the Contractor and the Owner for the considerations hereinafter named, agrees as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the installation of the following:

Sanitary Structure No. 1

The location of the existing structure is approximately 3600± LF East of Reed Road and approximately 3650± LF South of Lake Avenue; more particularly described as being located on the Western half of the Indiana and Michigan (I&M) service easement, which transferses said City of Fort Wayne Sludge Lagoons.

Said construction in sanitary structure number 1 shall consist of the removal of the existing 48" manhole stack, partial flow line removal and reconstruction installation of a concrete wall adaptable for pressure slide gate installation, pressure slide gate installation, 60" manhole stack installation extension and installation, above ground handwheel gate lift installation to be constructed

all according to Fort Wayne Pollution Control Engineering Department Drawing No. SY-11121, Sheet 1 of 1, and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2. THE CONTRACT SUM

The Owner shall pay Contractor for the performance of the contract the unit price sum of \$11,391.00. In event the amount of work is increased or decreased by Owner, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

Modification of M.H. and installation of Sluice Gates per Drawing No. SY-11121 and Special Provisions "Complete"	Eleven thousand three hundred ninety-one dollars and no/100	11,391.00
---	---	-----------

ARTICLE 3. PROGRESS PAYMENTS

The Owner shall make payments on account of the contract as provided herein, as follows:

Monthly progress payments will be made by Owner upon submission of a statement of quantities of work completed and/or materials supplied to the job site as of

the end of each month. On or about the 15th day of the following month, ninety (90%) percent of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the Contractor and approved or revised by the Engineering Department of the Owner, less the aggregate of previous payments, will be paid by Owner to the Contractor.

#### ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the Contractor that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Engineering Department of the Owner to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted thereupon, and the entire balance of the Contract sum shall be due and payable to the Contractor; provided only that Contractor shall first furnish Owner, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

#### ARTICLE 5. WORKMEN'S COMPENSATION ACT

Upon contract award, the Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he/she has complied with Section 5, 68, and 69 of the Workmen's Compensation Act, approved 14 March 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-14 or any supplemental statutes thereof. It is further stipulated that any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury to real or personal property, or for any injury, sustained by any person growing out of any act or doing of Contractor, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the State of Indiana, now in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said contractor, shall be conclusive against Contractor as to amount, liability and all other things pertaining thereto; it being the intent of the parties, hereto that Contractor indemnify and hold harmless City of Fort Wayne, Indiana.

#### ARTICLE 6. NONDISCRIMINATION OF LABOR

The Contractor further agrees to be bounded by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978, a copy of which Section is attached and incorporated herein and made a part hereof. (M/FER/6 - M/FER/8)

ARTICLE 7. PREVAILING WAGE SCALE

The Contractor agrees to pay and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Statues of Indiana and ordinances of City of Fort Wayne, (WR/1).

ARTICLE 8. COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

- A. Advertisement for Bids, for Contract No. 398-84.
- B. Instructions to Bidders for Contract No. 398-84.
- C. Contractor's Proposal Dated July 25, 1984.
- D. Fort Wayne Water Pollution Control Engineering Department Construction Drawing No. SY-11121.
- E. General Specifications and Conditions, detailed specifications, construction standards for the installation of storm and sanitary sewers adopted July 23, 1980 and addendums thereof of the City of Fort Wayne's Water Pollution Control Engineering Department.
- F. Workmen's Compensation Act Statutes of State of Indiana and Ordinance of City of Fort Wayne.
- G. Non Discrimination of labor General Ordinance No. G-34-78 (as amended).
- H. Prevailing wage scale.
- I. Performance Bond.
- J. Labor and Material Payment Bond.
- K. Comprehensive Liability Insurance Coverage.
- L. Application for Cut Permit.
- M. Escrow Agreement.
- N. Notice of Award.
- O. Notice to Proceed.
- P. Change Order.
- Q. Notice of Final Acceptance.
- R. Special Provisions.

ARTICLE 9. GUARANTEE OF WORKMANSHIP

The Contractor shall warrant all materials, labor and equipment furnished and work performed for a period of one (1) year from date of final acceptance in writing by the Owner.

ARTICLE 10. INDEMNITY

Contractor shall furnish to owner, within ten (10) days of the date hereof a certificate from an insuror acceptable to owner showing personal injury and property damage. Insurance inforce issued in connection with the work to be done under this Contract in accordance with said Specifications of the City of Fort Wayne, Division I, Section 7.

ARTICLE 11. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this Contract shall be subject to the decision of

the Chief Engineer of the Fort Wayne Water Pollution Control Department, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases or the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 12. COMPLETION DATE

The Contractor agrees to complete the work specified in the within contract in 60 consecutive calendar days after having been ordered by the Owner to commence work under this contract.

ARTICLE 13. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by the Mayor and Board of Public Works of the City of Fort Wayne, Indiana, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

## LAND EXCAVATING, INC.

BY: Jack Braun, PresidentBY: Jay Braun, Secretary

## CITY OF FORT WAYNE, INDIANA

BY: Win Moses Jr.  
Win Moses, Jr., Mayor

## ATTEST:

Helen V. Gochenour  
Helen V. Gochenour, Clerk

## APPROVED AS TO FORM AND LEGALITY:

R. Smouffer  
ASSOCIATE CITY ATTORNEY

## BOARD OF PUBLIC WORKS

David J. Kiester  
David J. Kiester, Chairman

Betty R. Collins, Member

Cosette R. Simon  
Cosette R. Simon, MemberApproved by the Common Council of the City of Fort Wayne on \_\_\_\_\_ day of  
\_\_\_\_\_, 19 \_\_\_\_.

# RELIANCE INSURANCE COMPANY

HEAD OFFICE, PHILADELPHIA, PENNSYLVANIA

## PERFORMANCE BOND

The American Institute of Architects, AIA Document A311, February 1970 Edition.

KNOW ALL MEN BY THESE PRESENTS: that (Here insert full name and address or legal title of Contractor)

LAND EXCAVATING, INC.

P. O. Box 192, LaOtto, IN 46763

as Principal, hereinafter called Contractor, and, RELIANCE INSURANCE COMPANY, a corporation of the State of Pennsylvania, with its Head Office at Philadelphia, Pennsylvania, as Surety, hereinafter called Surety, are held and firmly bound unto (Here insert full name and address or legal title of Owner)

BOARD OF PUBLIC WORKS

CITY OF FORT WAYNE

City-County Building, Fort Wayne, IN 46802

Eleven Thousand, Three Hundred Ninety-One & No/100

as Obligee, hereinafter called Owner, in the amount of

Dollars (\$11,391.00)

), for the payment whereof Contracto

and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents

WHEREAS, Contractor has by written agreement dated August 6, 19 84, entered into a contract with Owner fo

Sluice Gate Structure Resolution #398-1984

in accordance with Drawings and Specifications prepared by (Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

1) Complete the Contract in accordance with its terms and conditions, or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of Owner.

Signed and sealed this sixth

day of August

19 84

X Jay Braun  
(Witness)

LAND EXCAVATING, INC.

(Principal)

(Seal)

By : X

Jay Braun  
LAND EXCAVATING, INC.  
(Title)

RELIANCE INSURANCE COMPANY  
(Title)

Fred L. Tagtmeyer - Attorney-in-Fact

# RELIANCE INSURANCE COMPANY

HEAD OFFICE, PHILADELPHIA, PENNSYLVANIA

## **LABOR AND MATERIAL PAYMENT BOND**

The American Institute of Architects, AIA Document A311, February 1970 Edition.

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT

KNOW ALL MEN BY THESE PRESENTS: that (Here insert full name and address or legal title of Contractor)

LAND EXCAVATING, INC.

P. O. Box 192

LaOtto, IN 46763

as Principal, hereinafter called Principal, and, RELIANCE INSURANCE COMPANY, a corporation of the State of Pennsylvania, with its Head Office at Philadelphia, Pennsylvania, as Surety, hereinafter called Surety, are held and firmly bound unto (Here insert full name and address or legal title of Owner) BOARD OF PUBLIC WORKS

BOARD OF PUBLIC WORKS

**CITY OF FORT WAYNE**

City-County Building

and benefit of claimants as hereinbelow defined, in the amount

City-County Building, Fort Wayne, IN 46802

as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of **Eleven**

for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated August 6, 1984, entered into a contract with Owner for Sluice Gate Structure Resolution #398-1984

in accordance with Drawings and Specifications prepared by (Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

BILL NO. S-84-08-28

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS REFERRED AN  
ORDINANCE approving Contract #398-84 - Lagoons - Sluice Gates  
Sanitary Sewer Improvement Resolution, by the City of Fort Wayne,  
Indiana, by and through its Board of Public Works with Land  
Excavating, Inc.

---

---

---

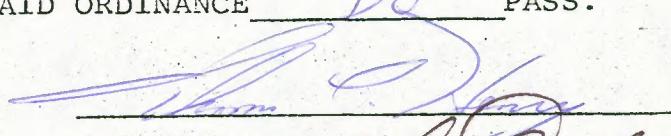
---

---

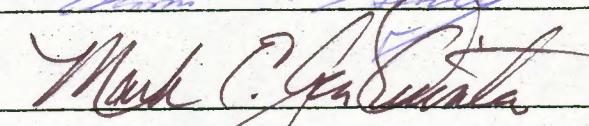
---

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

THOMAS C. HENRY, CHAIRMAN



MARK E. GIAQUINTA, VICE CHAIRMAN



CHARLES B. REDD



JAMES S. STIER



DONALD J. SCHMIDT



CONCURRED IN 8-28-84  
SANDRA E. KENNEDY, CITY CLERK

TITLE OF ORDINANCE San. Sewer Improvement Res. #398-84 - Lagoons - Sluice Gates  
DEPARTMENT REQUESTING ORDINANCE Board of Public Works *S-8408-28*  
SYNOPSIS OF ORDINANCE Sanitary Sewer Improvement Res. #398-84, Lagoons - Sluice Gates  
is described as follows: Sanitary Structure No. 1: The location of the existing  
structure is approximately 3600+ LF East of Reed Road and approximately 3650+ LF Sout  
of Lake Avenue; more particularly described as being located on the Western half  
of the Indiana and Michigan service easement, which transverses said City of Fort  
Wayne Sludge Lagoons. Said construction in sanitary structure number 1 shall consist  
of the removal of the existing 48" manhole stack, partial flow line removal and  
reconstruction installation of a concrete wall adaptable for pressure slide gate  
installation, 60" manhole stack installation extension and installation, above ground  
handwheel gate lift installation to be constructed in accordance with the plans,  
profiles, special details and specifications now on file in the Office of the Board  
of Public Works of said City.

EFFECT OF PASSAGE To control water and sewer backup.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$11,391.00

ASSIGNED TO COMMITTEE